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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIA ANNE HEWITT,

Defendant and Appellant.

A148529

(Mendocino County
Super. Ct. No. SCUK-CRCR-1477642,
SCTM-CRCR-1583537)

Julia Anne Hewitt appeals from a judgment of conviction and sentence imposed after she entered into negotiated plea agreements addressing multiple counts. Her attorney has filed a brief seeking our independent review of the record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (see *Anders v. California* (1967) 386 U.S. 738), in order to determine whether there is any arguable issue on appeal. We find no arguable issue and affirm.

I. FACTS AND PROCEDURAL HISTORY

A. Case Number SCUK-CRCR-1477642

In Mendocino County Superior Court case number SCUK-CRCR-1477642 (case 7642), an amended information charged Hewitt with the following offenses occurring on or about June 20–21, 2014: count one, transportation of a controlled substance (methamphetamine) for sale (Health & Saf. Code, § 11379, subd. (a));¹ count two,

¹ Unless otherwise indicated, all statutory references are to the Health and Safety Code.

misdemeanor possession of a controlled substance (heroin) (§ 11350, subd. (a)); count three, transportation of a controlled substance (oxycontin) for sale (§ 11352, subd. (a)); count four, possession of a controlled substance (oxycontin and oxycodone) for sale (§ 11351, subd. (a)); and count six, possession of a firearm by a prohibited person (Pen. Code, § 29800, subd. (a)(1)). It was further alleged that Hewitt had suffered a prior conviction for violation of section 11378, for purposes of a sentencing enhancement under section 11370.2.

Hewitt filed a motion to suppress evidence of police observations and items seized from her, including methamphetamine, pipes, cash, hashish, heroin, oxycontin, oxycodone and hydrocodone, on the ground there was no basis for an investigatory stop or detention and Hewitt did not consent to the search. (Pen. Code, § 1538.5.) According to testimony at the suppression hearing, a police officer had observed and followed a white pickup truck that was missing a front license plate. When the officer saw what he believed to be a defective turn signal initiated by the driver, he conducted a traffic stop. Hewitt was the sole occupant of the vehicle, had no registration or insurance, and appeared to be under the influence of a drug or medication. The officer observed Hewitt stuffing something into a waist pack; she claimed it was lottery tickets, but when she tried to pull them out, a glass methamphetamine pipe flew onto her lap. Hewitt was arrested, and a search of the truck uncovered heroin, methamphetamine, packing materials, scales, cannabis and a spoon.

On December 19, 2014, the motion to suppress was denied. The trial court found that the officer had a reasonable suspicion to stop Hewitt in her truck due to the missing front license plate and malfunctioning turn signal.²

On May 28, 2015, Hewitt brought a motion to relieve her appointed counsel under *People v. Marsden* (1970) 2 Cal.3d 118. The motion was denied. As stated in the

² A second motion to suppress, based on a warrantless seizure of a cell phone and its information from Hewitt's person, was filed on October 8, 2015. The record does not contain any ruling on the motion. Hewitt's opening brief on appeal asserts that the motion was not litigated after the prosecutor notified the court that the evidence would not be offered at trial.

opening brief in this appeal, the issue concerning counsel's representation became moot in August 2015 when the alternate public defender declared a conflict and new counsel was appointed to represent Hewitt.

Also on May 28, 2015, Hewitt's attorney declared a doubt as to Hewitt's competency, and the court appointed a psychologist to examine Hewitt and provide a report. (Pen. Code, § 1368.) On June 25, 2015, the parties submitted on the psychologist's report, and the court found Hewitt competent and reinstated the criminal proceedings.

On October 13, 2015, pursuant to a written plea agreement, Hewitt entered a plea of nolo contendere to count one (transportation of methamphetamine, § 11379, subd. (a)) and count three (transportation of oxycontin for sale, § 11352, subd. (a)). In her written plea form, Hewitt expressed her understanding that these offenses carried a maximum jail time of six years, and the court would sentence her to five years in jail. Hewitt acknowledged and waived her rights as specified in the plea form, which was signed by Hewitt and her attorney. Hewitt was also advised that the court would have discretion as to whether and how the term of sentence might be split between jail time and mandatory supervision. (See Pen. Code, § 1170, subd. (h)(5)(B).) In open court, Hewitt acknowledged that she read and signed the plea form and understood the rights waived and the consequences of her plea, and the parties stipulated that the preliminary hearing transcript stated a factual basis for the plea. The court found that Hewitt's waiver was knowing and voluntary and accepted the plea as entered knowingly, intelligently, and voluntarily. The matter was continued for sentencing.

B. Case Number SCTM-CRCR-1583537

In Mendocino County Superior Court case number SCTM-CRCR-1583537 (case 3537), Hewitt was charged in an information with offenses occurring on or about October 25, 2015: count one, possession of a controlled substance (heroin) for sale (§ 11351); count two, possession of a controlled substance (methamphetamine) for sale (§ 11378); and count three, maintaining a location for unlawful activity (§ 11366). In addition, it was alleged that Hewitt had three prior convictions for violation of section 11379, for

enhancement purposes under section 11370.2, and had committed the charged crimes while out on bail (Pen. Code, § 12022.1).

On February 1, 2016, pursuant to a written plea agreement, Hewitt entered a plea of nolo contendere to counts one and two and admitted one prior Health and Safety Code conviction for enhancement purposes under section 11370.2, subdivision (c). In her written plea form, Hewitt expressed her understanding that, as to these offenses, the court would sentence her to four years in jail. Hewitt acknowledged and waived her rights as specified in the plea form, which was signed by Hewitt and her attorney. Hewitt agreed that the sentence imposed in this case would be consecutive to the sentence to be imposed in case 7642, which would provide the principle term, and the total sentence would be nine years in jail, which could be split between jail time and supervised release in the court's discretion. In open court, Hewitt acknowledged that she read and signed the plea form and understood the rights she waived, and the parties stipulated to the factual basis for the plea as set forth in the preliminary hearing transcript. The court found that Hewitt's waiver was knowing and voluntary and accepted the plea as entered knowingly, intelligently, and voluntarily. The matter was continued for sentencing.

C. Sentencing

On April 7, 2016, the court denied probation and sentenced Hewitt as follows.

As to case 7642, the court imposed a split term of five years, comprised of the middle term of four years on the count three charge of transportation of oxycontin for sale (§ 11352, subd. (a)), plus a consecutive one year (one-third the midterm) on the count one charge of transportation of methamphetamine (§ 11379, subd. (a)). Credits were awarded, and fees and a restitution fine of \$900 were also imposed.

As to case 3537, the court imposed a split term of four years, comprised of one year (one-third the midterm, consecutive to the principle term in case 7642) as to the count one possession of heroin for sale (§ 11351), plus a consecutive three years for the prior Health and Safety Code conviction pursuant to section 11370.2. A concurrent middle term of two years was imposed on the count two conviction for possession of

methamphetamine for sale (§ 11378; see Pen. Code, 1170, subd. (h)(1)). A restitution fine of \$600 and fees were also imposed, and credits were awarded.

In total, Hewitt was sentenced to nine years, consistent with Hewitt's plea agreements; in regard to the split, consistent with the probation department's recommendation and after hearing argument on the matter, the court in its discretion ordered that five years be served in county jail, with four years of mandatory supervision. (Pen. Code, § 1170, subd. (h)(5)(B).)

D. Appeals

In case 7642, Hewitt filed a notice of appeal on May 27, 2016, from the order of April 7, 2016, purportedly appealing from the denial of her motion to suppress evidence. The notice of appeal also purports to challenge the validity of Hewitt's plea and asserts, as an additional basis for her appeal, that the police officer had no legitimate reason for stopping Hewitt's truck. No certificate of probable cause appears in the record.

In case 3537, Hewitt filed a notice of appeal on May 10, 2016, from the order of April 7, 2016, seeking to challenge the validity of her plea and requesting a certificate of probable cause on the ground that she was not provided adequate representation, advice of her rights, or explanation of the consequences of her plea. The request was denied. The notice of appeal bears the stamp, "inoperative."

II. DISCUSSION

Hewitt's appellate counsel represents in his opening brief in this appeal that he wrote to appellant and informed her that a brief on her behalf was filed according to the procedures outlined in *People v. Wende, supra*, 25 Cal.3d 436, and a copy of the brief was provided to her. Counsel further advised Hewitt of her right to file a supplemental brief in this case, raising any issues that she chose to call to the court's attention. We have not received any supplemental brief from Hewitt.

We find no arguable issues on appeal. There are no legal issues that require further briefing.

III. DISPOSITION

The judgment is affirmed.

NEEDHAM, J.

We concur.

JONES, P.J.

BRUINIERS, J.

(A148529)